ANNEXURE 8

MOGALE CITY LOCAL MUNICIPALITY

DRAFT

SUPPLY CHAIN MANAGEMENT POLICY

In terms of

MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of amendment: …….

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Mogale City Local Municipality**.**

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Definitions

1. In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

"B-BBEE status level of contribution" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment"

"Central Supplier Database (CSD)" means **–**

- The single database, hosted and managed by National Treasury that will serve as the source of all supplier information for organs of state.
- The supplier information will be verified with institutions such as the South African Revenue Service, Companies and Intellectual Property Commission, Department of Home Affairs etc.

"competitive bidding process" means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

"competitive bid" means a bid in terms of a competitive bidding process;

"emergency" means an unexpected and sudden event that must be dealt with urgently as the situation may give rise to:

- Threats to human life or safety;
- Treats to interruptions in the provision of essential services to customers;
- The treat of major expense to MCLM.

final award", in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

"formal written price quotation" means quotations referred to in paragraph 12 (1) (c) of this Policy;

“goods” means all the equipment, machinery, and / or other materials that the supplier is required to supply to the purchaser under the contract;

“in the service of the state” means to be –

(a) a member of –
  (i) any municipal council;
  (ii) any provincial legislature; or
  (iii) the National Assembly or the National Council of Provinces;
(b) a member of the board of directors of any municipal entity;
(c) an official of any municipality or municipal entity;
(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
(e) a member of the accounting authority of any national or provincial public entity; or
(f) an employee of Parliament or a provincial legislature;

“Invitation to tender” means –

(a) The actual tender documentation that can be obtained from the municipalities website or offices and.
(b) Does not refer the advertisement placed in any media form or format

“long term contract” means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which the municipality must keep in terms of paragraph 14 of this policy;

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

(a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
(b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
(d) the Preferential Procurement Regulations, 2017

"**services"** means those functional services ancillary to the supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

"the Act" means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

"the Regulations" means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

"written or verbal quotations" means quotations referred to in paragraph 12(1)(b) of this Policy.

CHAPTER 1
IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of Mogale City Local Municipality

must implement this Policy in a way that –

(a) gives effect to –

(i) section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) This Policy applies when Mogale City Local Municipality –

(a) procures goods or services;

(b) disposes of goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
(b) electricity from Eskom or another public entity, another municipality or a municipal entity;
(c) membership fees payable to professional bodies;
(d) purchase of license fees and
(e) tuition and enrolment payable through bursaries

Amendment of the supply chain management policy

3. (1) The accounting officer must –

(a) at least annually review the implementation of this Policy; and
(b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

(2) If the accounting officer submits proposed amendments to the Council that differs from the model policy issued by the National Treasury, the accounting officer must –

(a) ensure that such proposed amendments comply with the Regulations; and
(b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

(3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

Delegation of supply chain management powers and duties

4. (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

(a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
  (i) Chapter 8 or 10 of the Act; and
  (ii) this Policy;

(b) to maximise administrative and operational efficiency in the implementation of this Policy;

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

(3) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of Mogale City Local Municipality or to a committee which is not exclusively composed of officials of the municipality;

(4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

Sub delegations

5. (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those

delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be sub delegated by the accounting officer;

(b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –

(i) the chief financial officer;

(ii) a bid adjudication committee of which the chief financial officer is a member; or

(c) not exceeding R2 million (VAT included) may be sub delegated but only to –

(i) the chief financial officer;

(ii) a bid adjudication committee of which the chief financial officer is a member.

(3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

(a) the amount of the award;

(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

(4) A written report referred to in subparagraph (3) must be submitted –

(a) to the accounting officer, in the case of an award by –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) a manager referred to in subparagraph (2)(c)(iii); or

(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

(5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

(6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

Oversight role of Council

6. (1) The Council reserves its right to maintain oversight over the implementation of this Policy.

(2) For the purposes of such oversight the accounting officer must –

(i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

(ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council*.*

(3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor**.**

(4) The accounting officer must, at the end of each quarter, submit a report to Council on all contracts awarded with their expiry dates.

(5) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this Policy.

(2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

Training of supply chain management officials

8. The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.

CHAPTER 2
SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –

(i) demand management;

(ii) acquisition management;

(iii) logistics management;

(iv) disposal management;

(v) risk management; and

(vi) performance management.

Part 1: Demand management

System of demand management

10. (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

(2) The demand management system must –

(a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

(b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

(c) provide for the compilation of the required specifications to ensure that its needs are met.

(d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

System of acquisition management

11. (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

(a) that goods and services are procured by Mogale City Local Municipality in accordance with authorized processes only;

(b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;

(c) that the threshold values for the different procurement processes are complied with;

(d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

(e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -

(a) the kind of goods or services; and

(b) the name of the supplier.

Range of procurement processes

12. (1) Goods and services may only be procured by way of –

(a) verbal quotations, up to a transaction value of R2 000 (VAT included), petty cash purchases may be incurred up to a maximum value of R 500 per transaction with the maximum of R 2 000 per cost center per month;

(b) at least three written quotations for procurements of a transaction value over R2 000 up to R30 000 (VAT included);

(c) request for quotations advertised on the website and notice board for 7 days for procurements of a transaction value over R30 000 up to R200 000 (VAT included); and

(d) a competitive bidding process for–

(i) procurements above a transaction value of R200 000 (VAT included); and

(ii) the procurement of long term contracts.

(2) The accounting officer may, in writing-

(a) lower, but not increase, the different threshold values specified in subparagraph (1); or

(b) direct that –

(i) written or verbal quotations be obtained for any specific procurement of a transaction value which are R2 000 and below;

(ii) formal written price quotations be obtained for any specific procurement of a transaction value which are R 30 000 and below;

(iii) request for quotations advertised on the website for any specific procurement of a transaction value between R 30 000 and R 200 000; or

(iv) a competitive bidding process be followed for any specific procurement of a transaction value above than R200 000.

(3) Goods or services must not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

General preconditions for consideration of written quotations or bids

13. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

(a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

(b) has authorized Mogale City Local Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and

(c) has indicated –

(i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(d) Only valid quotations and bids may be considered. Bidders should be requested to:

(i) submit quotations valid for a period of 30 days;

(ii) in cases of quotations advertised on the website, submit quotations valid for 60 days;

(iii) in cases of tenders, bidders should be required to submit bids valid for a period not exceeding 90 days. For construction related tenders and in exceptional circumstances, not exceeding 120 days.

(vi) an extension of bid validity, if justified, should be requested in writing from all bidders before the expiry date. the extension should be for the

minimum period required to complete the evaluation, obtain the necessary approvals and award the contract.

Lists of accredited prospective providers

14. (1) **Supplier database:**

The accounting officer must –

(a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;

(c) specify the listing criteria for accredited prospective providers, and

(d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(e) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

(f) The list must be compiled per commodity and per type of service.

(h) The database must be updated with National Treasury Central Suppliers Database (CSD) on a monthly basis.

(2) **Uplifting of Township-based suppliers**

The accounting officer must –

(a) keep a list of accredited prospective Mogale Township-based suppliers of goods and services that may be used for the procurement requirements through written or verbal quotations and formal written price quotations; and

(b) at least twice a year through newspapers commonly circulating locally, the website and notice boards, invite local suppliers to update details as well as

apply for listing. The list should be updated to include newly established local businesses.

(c) the sourcing of quotations must be done without marginalizing other prospective suppliers outside townships.

(d) the invitation of price quotations from the List of Township-based suppliers should be done on a rotational basis to promote ongoing competition amongst locally based suppliers.

(e) in order to ensure fairness, quotations must be sourced from local Township-based suppliers, cooperatives and other listed suppliers outside the townships.

(3) **Promotion and development of cooperatives**

The accounting officer may consider–

(a) the establishment of a database of pre-qualified service providers that are cooperatives for prioritized commodities / services. Procurement should be targeted for RFQ process only, that means that the procurement should not exceed R 200 000.

(b) an advertisement should be open to all cooperatives to ensure competitiveness;

(c) when sourcing quotations for identified services / goods, Mogale City may rotate suppliers from both supplier databases (ie supplier database and cooperative database) to ensure equal opportunities and fairness in the process;

(d) once the database of cooperatives is established, control measures should be put in place to ensure that rotation is done in a manner that guarantees equal opportunity for all registered cooperatives. The criteria for listing of cooperatives should be established and standards should be set that cooperatives should meet to be eligible to register. The database should be updated regularly to allow new entrants an opportunity to be developed.

(e) the development and promotion of cooperatives should also be encouraged through sub-contracting in the bidding processes. The Accounting Officer

(through the Bid Specification Committee) may include a condition in its bidding documents for prioritized commodities or services that:

"*a successful bidder must sub-contract a pre-determined percentage of its work to cooperatives in terms of subsection 14.3(h) below".*

(f) This will ensure that even if cooperatives does not win a contract according to the point scoring, they are still guaranteed work by the municipality through sub-contracting.

(g) the condition to sub-contract a certain percentage of the contract should be made public through the advertisement;

(h) the project manager, in conjunction with the contractor and consultant, should decide on the appointment of a cooperative for sub-contracting purposes using the list of approved cooperatives on a justifiable basis.

(4) **Registration on Central Supplier Database (CSD)**

(a) Suppliers wishing to provide goods and services to the municipality must be registered on the CSD.

(b) Suppliers wishing to provide goods and services to the municipality must be registered on the CSD.

(c) Suppliers must in each tender submission provide their CSD number together with Central Registration Summary Report

(d) Where the suppliers are in the process of registration and this has not been completed, proof of the registration process must be provided together with the tender submission.

(e) No contract will be awarded without the CSD number and the CSD Registration Summary Report.

(f) The CSD Registration Summary Report must be provided:

(i) Upon award; and

(ii) Not be older than seven days on acceptance of award.

Written or verbal quotations (0 to R 2000)

15.1 Petty cash purchases (0 to a maximum transaction value of R 500)

(Please note that this portion is not applicable to salary and wage pay outs made from petty cash through the Salary office)

The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows:

(a) The relevant Executive Manager/Manager of delegated official to authorize all petty cash purchases, up to a maximum of R 500 per transaction and up to a maximum of R 2 000 per month per manager/section with a maximum of R 10 000 per department per month;

(b) A monthly reconciliation report from each Executive Manager must be provided to the chief financial officer, including –

(i) the total amount of petty cash purchases for that month for the relevant department per manager/section; and

(ii) receipts and appropriate documents for each purchase to be provided to Expenditure Section for re-imbursement.

(c) A quarterly report from the chief financial officer must be provided to the Finance Portfolio on the total amount of petty cash purchases per Department.

(d) If any department or section does not comply with the abovementioned or any other requirements from the Expenditure Section, the Chief Financial Officer will terminate their option to procure through petty cash.

15.2 Verbal or written quotations (0 to R 2 000)

The conditions for the procurement of goods or services through written or verbal quotations, are as follows:

(a) a verbal quotation must be obtained from at least one service provider for the procurement of goods and services of a transaction value lower than R 2 000;

(b) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider:

(c) a monthly reconciliation report from each Department must be provided to the chief financial officer for all the procurement of goods below R 2 000 for which only one quotation was obtained.

Written quotations (R 2 000 to R 10 000)

16. The conditions for the procurement of goods or services through written quotations, are as follows:

(a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of Mogale City Local Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy, for procurement requirements between R 2 000 and R 10 000;

(b) to the extent feasible, providers must be requested to submit such quotations in writing;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

(d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

Formal written price quotations (R 10 000 to R 200 000)

17. (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of Mogale City Local Municipality;

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and

(d) the accounting officer must record the names of the potential providers and their written quotations.

(2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

18. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

(a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

(b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven (7) days on the website and an official notice board of Mogale City Local Municipality;

(c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;

(d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;

(e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

(e) bids with a rand value equal to, or above R 30 000 will be subjected to the preference points system in terms of section 5.1 of the Preferential Procurement Regulations of 2017

Competitive bids

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process and subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

20. The procedures for the following stages of a competitive bidding process are as follows:

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(g) Administration of contracts

(i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

(h) Proper record keeping

(i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

Bid documentation for competitive bids

21. The criteria to which bid documentation for a competitive bidding process must comply, must –

(a) take into account –

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

(c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

(d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–

(i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –

(aa) for the past three years; or

(bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a

municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

(e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

Public invitation for competitive bids

22. (1) The procedure for the invitation of competitive bids, is as follows:

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of Mogale City Local Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in a public advertisement, must include –

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and

(iii) date, time and venue of any proposed site meetings or briefing sessions.;

(2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days' requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

Procedure for handling, opening and recording of bids

23. The procedures for the handling, opening and recording of bids, are as follows:

(a) (a) Bids–

(i) must be opened only in public;

(ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

(iii) received after the closing time should not be considered and returned unopened immediately.

(b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;

(c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and

(d) The accounting officer must –

(i) record in a register all bids received in time;

(ii) make the register available for public inspection; and

(iii) publish the entries in the register and the bid results on the website.

Negotiations with preferred bidders

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

(a) does not allow any preferred bidder a second or unfair opportunity;

(b) is not to the detriment of any other bidder; and

(c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –

(a) large complex projects;

(b) projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

(a) paragraph 27, 28 and 29 of this Policy; and

(b) any other applicable legislation.

(5) All committee members must annually declare their financial interest to the accounting officer.

(6) The accounting officer may apply the committee system to formal written price quotations.

(7) The formation and processes within each committee shall be undertaken through the approved Bid Committee Charter.

Bid specification committees

27. (1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality.

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “approved equivalent”;

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and

(g) must be approved by the accounting officer or his/her delegate prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

(3) A bid specification committee must be composed of one or more officials of Mogale City Local Municipality preferably the Executive Manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

Bid evaluation committees

28. (1) A bid evaluation committee must –

(a) evaluate bids in accordance with –

(i) the specifications for a specific procurement; and

(ii) the points system set out in terms of paragraph 27(2)(f).

(iii) Unconditional discounts must be taken into account for evaluation purposes; and

(iv) Conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected

(b) evaluate each bidder's ability to execute the contract;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of-

(a) officials from departments requiring the goods or services; and

(b) at least one supply chain management practitioner of Mogale City Local Municipality**.**

Bid adjudication committees

29. (1) A bid adjudication committee must –

(a) consider the report and recommendations of the bid evaluation committee; and

(b) either –

(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or

(ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

(2) A bid adjudication committee must consist of at least four senior managers of Mogale City Local Municipality which must include –

(a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

(b) at least one senior supply chain management practitioner who is an official of Mogale City Local Municipality; and

(c) a technical expert in the relevant field who is an official, if such an expert exists.

(3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5)(a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

(7) The accounting officer must comply with section 114 of the Act within 10 working days

Procurement of banking services

30. (1) A contract for banking services –

(a) must be procured through competitive bids;

(b) must be consistent with section 7 or 85 of the Act; and

(c) may not be for a period of more than five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

(2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The accounting officer must notify SITA together with a motivation of the IT needs if –

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

(4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

Procurement of goods and services under contracts secured by other organs of state

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

(d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subparagraphs (1)(c) and (d) do not apply if –

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

(b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

(3) The accounting officer should satisfy himself that the applicable procurement processes were followed by obtaining any other information, including but not limited to, the following documents from the other organ of state:

(i) Bid advertisement;

(ii) Bid Evaluation report;

(iii) Bid Adjudication report and minutes;

(iv) Acceptance letter;

(v) Service Level Agreement.

(4) The municipality should consult with the Gauteng Provincial Treasury on the intention to apply this section. Should no response be received from the GPT within five working days, the municipality can proceed as if there are no issues. SCM together with the user department must produce a report for the Accounting Officer's consideration prior to the awarding of contracts in terms of this section.

(5) The report should be presented before BAC for consideration before being submitted to the Municipal Manager for approval

Procurement of goods necessitating special safety arrangements

33. (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

Local Production and Content

34.

(1) The Department of Trade and Industry may, in consultation with the National Treasury-

(a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and

(b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

Appointment of consultants

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if

(a) the value of the contract exceeds R200 000 (VAT included); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in Mogale City Local Municipality.

Deviation from, and ratification of minor breaches of, procurement processes

36. (1) The accounting officer may –

(a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) in an emergency;

(ii) if such goods or services are produced or available from a single provider only;

(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

(iv) acquisition of animals for zoos and/or nature and game reserves; or

(v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

(3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

Unsolicited bids

37. (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

(2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

(c) the person who made the bid is the sole provider of the product or service; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

(a) reasons as to why the bid should not be open to other competitors;

(b) an explanation of the potential benefits if the unsolicited bid were accepted; and

(c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account –

(a) any comments submitted by the public; and

(b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

(9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

Combating of abuse of supply chain management system

38. (1) The accounting officer must–

(a) take all reasonable steps to prevent abuse of the supply chain management system;

(b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –

(i) take appropriate steps against such official or other role player; or

(ii) report any alleged criminal conduct to the South African Police Service;

(c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

(d) reject any bid from a bidder–

(i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any

other municipality or municipal entity, are in arrears for more than three months; or

(ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

(f) cancel a contract awarded to a person if –

(i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

(ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) reject the bid of any bidder if that bidder or any of its directors –

(i) has abused the supply chain management system of Mogale City Local Municipality or has committed any improper conduct in relation to such system;

(ii) has been convicted for fraud or corruption during the past five years;

(iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

(iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

(2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

39. The accounting officer must establish and implement an effective system of logistics management, which must include -

(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

(c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;

(d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

(e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;

(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

Disposal management

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(i) Every head of department shall report to the chief financial officer on 31 October and 30 April of each financial year on any fixed assets which such head of department wishes to have written off, stating in full the reasons for such recommendation.

(ii) The chief financial officer shall consolidate all such reports, and submit a recommendation to the Council on the fixed assets to be written off.

(iii) assets may only be disposed of as approved by Council;

(iv) assets stolen or damaged beyond repair, and replaced by the Broker or from the Insurance Fund, may be written off as approved by the Insurance Portfolio and reported annually to the Council;

(v) all the requirements as per the approved Fixed Asset Management Policy must be adhered to for the disposal or letting of assets.

(2) Assets may be disposed of by –

(i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(vi) selling the asset;

(vii) destroying the asset, or

(viii) donation of the assets (as approved by Council).

(3) The accounting officer must ensure that –

(a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

(c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

(e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

(f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

41. (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, should be fully detailed and specified in the Service Level Agreements entered into with the individual suppliers/service providers.

(2) Risk management must include –

(a) the identification of risks on a case-by-case basis;

(b) the allocation of risks to the party best suited to manage such risks;

(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

42. The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

Tax matters

43. (i) No tender shall be awarded to any person whose tax matters have not been declared by the South African Revenue Services to be in order.

(ii) Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer should utilize the CSD number via its website www.csd.gov.za to access the supplier records and verify tax compliance status.

(iii) Where goods and services are procured from foreign suppliers with tax obligations in South Africa, proof of tax compliance status should be obtained from the supplier.

(iv) Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa should complete a pre-award questionnaire on the MBD 1 for their tax obligation categorization. Where a recommendation for award of a bid has been made to a bidder who is a foreign supplier and who completed the pre-award questionnaire on the MBD 1, the Accounting Officer must submit a copy of the completed MBD 1 received from the bidder to SARS on the following email address: GovernmentInstitute@sars.gov.za. SARS will issue a letter to the procuring entity confirming whether or not the foreign supplier has tax obligations in South Africa.

(v) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations.

(vi) The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

(vii) Where goods or services have been delivered satisfactorily without any dispute, accounting officers should not delay processing payment of invoices due to outstanding tax matters.

Surety and Retention

44. (a) Surety

Surety guarantee the performance of the contractor according to the plans and specifications. The client is guaranteed compensation for any financial losses should the contractor fail to construct according to the contract.

(i) MCLM shall request the prospective bidder to provide a surety in all their infrastructure project equal to 100% of the contract/bid value.

(b) Retention

Retention is a guarantee against defective workmanship or materials after the completion of a construction project.

(i) Retention on Infrastructure contracts should be limited to 5% of the tender sum. Where the value of the surety required has been reduced, or even waived, the usual 10% retention shall apply. The value of retention deducted will therefore be as follows:

a) Micro and Minor: 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.

b) Major: 10% of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period.

ii) Retention in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.

iii) For turnkey/design and construction projects, the above retention limits may be reviewed by the Executive Manager: UMS and Roads Transport

Preference point system

45. (i) (1) 80/20 preference point system is applicable for all acquisition of goods or services for Rand value above R30 000 and up to R50 million.

(ii) 90/10 preference point system is applicable for acquisition of goods or services for Rand value above R5-0 million.

(iii) A non -compliant contributor to B-BBEE may not be disqualified, but-

(a) may only score points out of 80 for price; and

(b) scores 0 points out of 20 for B-BBEE

Criteria for breaking deadlock in scoring

46. (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points of B-BBEE.

(2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE the contract must be awarded to a contactor that scores the highest points for functionality

(3) If two or more tenderers score equal total points in all respects, the award must be decided by drawing of lots.

Declarations

47. (1) A bidder must, in the stipulated manner, declare that

(a) The information regarding any claim from preference points provided is true and correct;

(b) The signatory to the bid document is duly authorized; and

(c) Documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Municipality.

Sales of bid document

48. (i) It is the practice of Mogale City Local municipality to sell tender document.

(ii) The tender document shall be sold as per the below table:

Estimated tender amount	Price per document (Nonrefundable fee)
Documents	
Bid Below R10 million	R500
Bid of R10 million and above	R1000

(iii) The bidders can download the bid document from etender portal **website** **www.etenders.gov.za** **or** **www.mogalecity.gov.za** at no cost.

Subcontracting as a condition of tender

49. (1) If feasible to subcontract, Mogale City Local Municipality shall apply sub-contracting to contracts below R30 million to advance designated groups and must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract.

(2) The Executive manager together with the consultant appointed that perform the feasibility of sub-contracting and determine the elements within the scope of work that is sub-contractible.

(3) The municipality shall issue the tender document which is clear as to which elements of the specification is sub-contractible.

(4) If feasible to subcontract, the municipality must apply subcontracting to contracts above R30 million to advance designated groups and must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(a) an EME or QSE;

(b) an EME or QSE which is at least 51% owned by black people;

(c) an EME or QSE which is at least 51% owned by black people who are youth

(d) an EME or QSE which is at least 51% owned by black people who are women

(e) an EME or QSE which is at least 51% owned by black people with disabilities

(f) an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;

(g) an EME or QSE which is at least 51% owned by black people who are military veterans;

(h) a cooperative which is at least 51% owned by black people

(i) more than one of the categories referred to in paragraphs (a) to (h)

(5) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (2) from which the tenderer must select a supplier.

Extension of validity period

50. (1) *The validity period of all bid shall be 90 days.*

(2) An extension of bid validity, if justified in exceptional circumstances, should be requested in writing from all bidders before the expiration date.

(3) The extension should be for the minimum period required to complete the evaluation, obtain the necessary approvals and award the contract.

(4) In the case of fixed price contracts, requests for second and subsequent extensions should be permissible only if the request for extension provides for an appropriate adjustment mechanism of the quoted price to reflect changes of inputs for the contract over the period of extension.

(5) Bidders should have the right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid should be required to provide a suitable extension of bid security, if applicable.

(6) Bidders who did not respond to the request of extension will not be disqualified but will be evaluated based on the original document submitted.

Payment by way of Cession

51. 1) Cessionary payment

The municipality shall accept cessionary payment under the following conditions:

a) Signed agreement between the parties involved.

b) Provided that the cedee submit original and valid tax clearance certificate.

c) The cedee is not blacklisted in the National Treasury database

d) Cessionary agreement shall enter into on behalf of the municipality and approved by delegated officials in terms of approved delegations.

3. Cession can only be entered into to cover any element of the contract the appointed service provider or financing cession to the appointment service provider.

4) SARS instructions

Extension/Variation of Scope of Work

52. (1) It is recognized that, in exceptional cases, an accounting officer may deem it necessary to expand or vary order against the original contract, and thus no extension can be implement prior approval.

(2) Variation should cover the current work

(3) Contract(s) may be expanded or varied by not more than 20% for construction related goods, works and/or services and 15% for all other goods or services of the original value of the contract after approval by the BAC and while on tenders above R10 Million must be approved by the Accounting Officer after the BAC has recommended to the Accounting Officer on the proposed variations.

3. Any expansion or variation of contract in excess of these thresholds must be dealt with in terms of the provision to section 116(3) of the MFMA which will be regarded as an amendment to contract and should be approved by council.

Extension of the Completion Period

53. (1) The extension should be approved before the expiry of the completion date.

(2) The municipality must first accept the extension of the completion period before expiry period

Prohibition on awards to persons whose tax matters are not in order

54. (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

(3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

Awards to local person/service provider whose municipal service charges are not in order

55. (1) Award below R200 000 may be made in terms of this Policy to a local person/service provider whose municipal service charges have not been declared by the MCLM to be in order on condition that:

(i) He/she have signed acknowledgement of debt and agreed on the terms of repayment, or

(ii) He/she agree that at time of payment of the goods or service provided, MCLM will set-off the amount owing and pay the balance to the service provider

Prohibition on awards to persons in the service of the state

56. Irrespective of the procurement process followed,

(1) no award may be made to a person in terms of this Policy –

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) a person who is an advisor or consultant contracted with the municipality on a specific project.

(2) SCM Practitioners must complete the Request for Verification with the details of recommended service provider's shareholders/directors/members before award of the bid and sent it to the call center of Gauteng Provincial Treasury for verification on the PERSAL system.

(3) The state employees' data in the PERSAL system will be used to facilitate the identification of companies that have tendered for contracts while they are owned by employees of national or provincial government departments.

Awards to close family members of persons in the service of the state

57. The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

(a) the name of that person;
(b) the capacity in which that person is in the service of the state; and
(c) the amount of the award.

Ethical standards

58. (1) A code of ethical standards as set out in the "*National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management*" is hereby established for officials and other role players in the supply chain management system of Mogale City Local Municipality in order to promote –

(a) mutual trust and respect; and
(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) A breach of the code of ethics must be dealt with as follows -

(a) in the case of an employee, in terms of the disciplinary procedures of Mogale City Local Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
(b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
(c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

Inducements, rewards, gifts and favours to municipalities, officials and other role players

59. (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

(a) any inducement or reward to the municipality or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of this Policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subparagraph (1) does not apply to gifts less than R350 in value.

Sponsorships

60. The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

(a) a provider or prospective provider of goods or services; or

(b) a recipient or prospective recipient of goods disposed or to be disposed.

Objections and complaints

61. Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

Resolution of disputes, objections, complaints and queries

62. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

(a) to assist in the resolution of disputes between Mogale City Local Municipality and other persons regarding -

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

(b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

Contract Management

63. (i) The relevant user division takes responsibility for day-to-day management and monitoring of a contract in line with the contractual conditions.

(ii) Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.

(iii) The SCMU is responsible for notifying the user division within 90 days of term contract expiry to allow the user division sufficient time to decide whether to initiate the procurement processes after needs analysis have been done or not.

(iv) Regular meetings with contractors to discuss progress, deliverables, foreseeable problems and/or amendments must be held during the contract period

Contracts having budgetary implications beyond three financial years

64. The municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

Contracts providing for compensation based on turnover

65. If a service provider acts on behalf of Mogale City Local Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –

(a) a cap on the compensation payable to the service provider; and

(d) that such compensation must be performance based.

Annual submission of procurement plans

66. The following information must be submitted to Gauteng Provincial Treasury:

(a) Approved procurement plans containing all planned procurement for the financial year in respect of the procurement of goods, works and / or services which exceed R 200 000 (all applicable taxes included) by not later than 31 July of each year. The procurement plan must be furnished in the format as prescribed by Provincial Treasury.

(b) Bi-annual reports on the implementation of the procurement plans by not later than a month preceding the end of the two quarters. The first bi-annual report

is due by not later that the 15th of January and the annual report on the implementation of the procurement plans is due by not later than the 30th of July annually in the format as prescribed by Provincial Treasury.

67. Emergency

(a) Irrespective of monetary value, an emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification:

(i) In the event of a threat or interruption in the municipality's ability to execute its mandate or render its services.

(ii) In the event of an immediate threat to the environment or human safety.

(b) The appropriate course of action for emergency shall be justifiable under the circumstances.

(c) The nature of the emergency and the details of the justifiable procurement process followed will be recorded and reported.

68. **Application of this policy**

The policy shall be of force and effect upon its adoption by the Mogale City Local Municipality Council, however all bids advertised and not concluded before this policy become effective, shall accordingly be concluded using the preceding Supply Chain Management policy and not this current Policy.

Commencement

69. This Policy takes effect on 1 July 2019